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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 NATIONAL LAWYERS' GUILD SAN
14 FRANCISCO CHAPTER, et al.,

15 Plaintiffs,

16 v.

17 U.S. DEPARTMENT OF HOMELAND
18 SECURITY, et al.,

19 Defendants.
20 _____/

No. C 08-5137 RS

**JOINT STATUS REPORT
AND STIPULATION TO STAY
PROCEEDINGS; AND ~~PROPOSED~~
ORDER**

21 WHEREAS, in an effort to narrow the issues before the Court,

22 1. The parties have entered into a series of stipulations to stay proceedings since April
23 24, 2009, to allow Defendants to conduct secondary searches and process potentially responsive
24 records, and to allow the parties to confer in an effort to resolve Plaintiffs' claims without the
25 Court's intervention. On October 30, 2009, as a result of those negotiations, Plaintiffs stipulated that
26 they did not contest the adequacy of the searches performed by Defendants DHS, DHS-OIG, or
27 CIS, or the propriety of the withholdings made by DHS-OIG; accordingly, pursuant to Rule
28 41(a)(1)(A)(ii), the parties filed a stipulation of dismissal of this action with prejudice with respect

1 to those Defendants. Negotiations continued with respect to the remaining Defendants: CBP,
2 EOIR, and ICE. Most recently, on January 7, 2011, the Court approved the parties' stipulations
3 (a) to further stay proceedings through and including January 31, 2011, and (b) to submit a joint
4 report advising the Court on the status of negotiations and processing, and/or a stipulation proposing
5 a schedule to govern further proceedings, no later than January 31, 2011; and

6 2. EOIR has provided Plaintiffs with a letter describing the scope of its search and a
7 preliminary, partial Vaughn index explaining the bases for its withholdings. In response, Plaintiffs
8 have stipulated that they do not contest either the adequacy of the search performed by EOIR, or
9 the propriety of the withholdings made by EOIR; and

10 3. ICE has provided Plaintiffs with a letter describing the scope of its search and a
11 preliminary, partial Vaughn index explaining the bases for its withholdings. In response, Plaintiffs
12 have stipulated that they do not contest either the adequacy of the search performed by ICE, or
13 the propriety of the withholdings made by ICE; and

14 4. CBP has provided Plaintiffs with a letter describing the scope of its search and a
15 preliminary, partial Vaughn index explaining the bases for its withholdings; Plaintiffs have
16 responded with several objections and/or requests for clarification; and the parties have continued
17 to confer to discuss the scope of CBP's search and the propriety of its withholdings. Since the last
18 status report, CBP has released three additional responsive documents that were located during
19 quality control checks, and has confirmed that the processing of potentially responsive records
20 located during its secondary search is complete. CBP has also reconsidered the bases for its prior
21 withholdings, and has determined — as an exercise of its discretion, and without conceding that they
22 were not properly withheld — to release portions of three documents that were previously withheld
23 in full. Plaintiffs are not yet prepared to stipulate to the adequacy of CBP's search or the propriety
24 of its withholdings; however, further negotiation may eliminate the need for judicial resolution of
25 these issues. The parties are in communication regarding a possible solution concerning the small
26 number of documents remaining in dispute, and have agreed to confer again by February 3, 2011,
27 to discuss these issues; and

28 WHEREAS it would minimize litigation costs and conserve judicial resources to stay

1 further proceedings in this case to permit the above-mentioned negotiations to continue, and to
2 permit the parties to confer further as described above;

3 IT IS HEREBY AGREED AND STIPULATED by and between the parties, through
4 undersigned counsel, subject to the approval of the Court, that:

- 5 1. Further proceedings in this case are stayed for a period of approximately 2 months
6 through and including March 31, 2011, and
- 7 2. No later than March 31, 2011, the parties shall submit a joint report advising
8 the Court on the status of the above-mentioned negotiations and/or a stipulation
9 proposing a schedule to govern further proceedings.

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1 Dated: January 31, 2011

2 Respectfully submitted,

3 /s/ Dominique-Chantale Alepin
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Attorneys for Defendants

19 **SIGNATURE ATTESTATION**

20 In accordance with General Order 45(X), I hereby attest that I have obtained
21 Dominique-Chantale Alepin's concurrence in the filing of this document.

22 /s/ Eric B. Beckenhauer
ERIC B. BECKENHAUER

23
24 **~~[PROPOSED]~~ ORDER**

25 Pursuant to stipulation, **IT IS SO ORDERED.**

26
27 Dated: 2/3/11


28 RICHARD SEEBORG
United States District Judge